

CHAPTER 320

GOVERNMENT - STATE

SENATE BILL 04-251

BY SENATOR(S) Teck;
also REPRESENTATIVE(S) Young.

AN ACT

CONCERNING THE AUTHORITY OF THE DEPARTMENT OF REGULATORY AGENCIES TO CONTRACT FOR PERSONAL SERVICES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 24-34-101, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

24-34-101. Department created - executive director. (5) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REGULATORY AGENCIES MAY ENTER INTO CONTRACTS PURSUANT TO PART 5 OF ARTICLE 50 OF THIS TITLE FOR THE PURPOSE OF DECREASING APPROPRIATIONS IN THE ANNUAL GENERAL APPROPRIATION ACT.

(6) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REGULATORY AGENCIES MAY CONTRACT, PURSUANT TO PART 5 OF ARTICLE 50 OF THIS TITLE, WITH A PERSON HAVING THE TECHNICAL OR SUBJECT MATTER EXPERTISE OR THE SKILL AND EXPERIENCE TO DEVELOP, IMPLEMENT, AND ADMINISTER THE LICENSING AND EXAMINATION FUNCTIONS OF THE DIVISIONS IN THE DEPARTMENT WHEN THE EXECUTIVE DIRECTOR DETERMINES THAT A DIVISION LACKS SUFFICIENT TECHNICAL EXPERTISE TO PERFORM SUCH LICENSING AND EXAMINATION FUNCTIONS.

(7) A CONTRACT ENTERED INTO PURSUANT TO THIS SECTION MAY AUTHORIZE A CONTRACTOR TO COLLECT FEES DIRECTLY FROM AN APPLICANT. THE CONTRACT MAY ALLOW THE CONTRACTOR TO RETAIN ALL OR A PORTION OF THE FEES AS PAYMENT FOR PERFORMANCE OF THE SERVICES UNDER THE CONTRACT. FEES COLLECTED AND RETAINED BY THE CONTRACTOR SHALL NOT BE SUBJECT TO THE PROVISIONS OF ARTICLE 36 OF THIS TITLE.

(8) THIS SECTION SHALL NOT BE CONSTRUED TO LIMIT THE POWERS OF ANY **TYPE**

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

1 BOARD OR COMMISSION IN THE DEPARTMENT OF REGULATORY AGENCIES.

SECTION 2. 10-1-103 (3), Colorado Revised Statutes, is amended to read:

10-1-103. Division of insurance - subject to termination - repeal of functions.

(3) All direct and indirect expenditures of the division shall be paid from the division of insurance cash fund, which fund is hereby created in the state treasury. All fees collected pursuant to sections 8-44-204 (7), C.R.S., 8-44-205 (6), C.R.S., 10-2-413, 10-3-108, 10-3-207, 10-3.5-104, 10-3.5-107, 10-12-106, 10-15-103, 10-16-110 (1) and (2), 10-16-111 (1), 24-10-115.5 (5), C.R.S., and 29-13-102 (5), C.R.S., NOT INCLUDING FEES RETAINED PURSUANT TO CONTRACTS ENTERED INTO IN ACCORDANCE WITH SECTION 10-2-402 (5) OR 24-34-101, C.R.S., and all taxes collected pursuant to section 10-3-209 (4) designated for the division of insurance, shall be transmitted to the state treasurer, who shall credit the same to the division of insurance cash fund. All moneys credited to the division of insurance cash fund shall be used as provided in this section and in section 24-48.5-106, C.R.S., shall not be deposited in or transferred to the general fund of this state or to any other fund, and shall be subject to annual appropriation by the general assembly for the purposes authorized in this title and as otherwise authorized by law. In accordance with section 24-36-114, C.R.S., all interest derived from the deposit and investment of moneys in the fund shall be credited to the general fund.

SECTION 3. 11-51-707 (2), Colorado Revised Statutes, is amended to read:

11-51-707. Collection of fees - division of securities cash fund created.

(2) The securities commissioner shall transmit all fees collected under this article, NOT INCLUDING FEES RETAINED BY CONTRACTORS PURSUANT TO CONTRACTS ENTERED INTO IN ACCORDANCE WITH SECTION 11-51-405 OR 24-34-101, C.R.S., to the state treasurer, who shall credit the same to the division of securities cash fund, which fund is hereby created. Pursuant to subsection (3) of this section, the general assembly shall make annual appropriations from said fund for expenditures of the division OF SECURITIES. The expenditures incurred by the division shall be made out of such appropriations upon vouchers and warrants drawn pursuant to law. All moneys credited to the division of securities cash fund shall be used as provided in this section and shall not be deposited in or transferred to the general fund of this state or any other fund.

SECTION 4. 12-61-103 (6) (a), Colorado Revised Statutes, is amended to read:

12-61-103. Application for license. (6) (a) The applicant for a broker's license shall submit to and pass an examination designated to determine the competency of the applicant and prepared by or under the supervision of the REAL ESTATE commission OR ITS DESIGNATED CONTRACTOR. THE COMMISSION MAY CONTRACT WITH AN INDEPENDENT TESTING SERVICE TO DEVELOP, ADMINISTER, OR GRADE EXAMINATIONS OR TO ADMINISTER LICENSEE RECORDS. THE CONTRACT MAY ALLOW THE TESTING SERVICE TO RECOVER THE COSTS OF THE EXAMINATION AND THE COSTS OF ADMINISTERING EXAM AND LICENSE RECORDS FROM THE APPLICANT. THE COMMISSION MAY CONTRACT SEPARATELY FOR THESE FUNCTIONS AND ALLOW RECOVERED COSTS TO BE COLLECTED AND RETAINED BY A SINGLE CONTRACTOR FOR DISTRIBUTION TO OTHER CONTRACTORS. The commission shall have the authority to set the minimum passing score that an applicant must receive on the examination, and

said score shall reflect the minimum level of competency required to be a broker. Said examination shall be given at such times and places as the commission prescribes. The examination shall include, but not be limited to, ethics, reading, spelling, basic mathematics, principles of land economics, appraisal, financing, a knowledge of the statutes and law of this state relating to deeds, trust deeds, mortgages, listing contracts, contracts of sale, bills of sale, leases, agency, brokerage, trust accounts, closings, securities, the provisions of this part 1, and the rules of the commission. The examination for a broker's license shall also include the preparation of a real estate closing statement.

SECTION 5. 12-61-111, Colorado Revised Statutes, is amended to read:

12-61-111. Disposition of fees. All moneys collected by the REAL ESTATE commission under parts 1 and 4 of this article, NOT INCLUDING FEES RETAINED BY CONTRACTORS PURSUANT TO CONTRACTS ENTERED INTO IN ACCORDANCE WITH SECTION 12-61-103 OR 24-34-101, C.R.S., shall be transmitted to the state treasurer, who shall credit the same to the division of real estate cash fund. Pursuant to section 12-61-111.5, the general assembly shall make annual appropriations from said fund for expenditures of the commission incurred in the performance of its duties under parts 1 and 4 of this article. The commission may request an appropriation specifically designated for educational and enforcement purposes. The expenditures incurred by the commission under parts 1 and 4 of this article shall be made out of such appropriations upon vouchers and warrants drawn pursuant to law.

SECTION 6. 12-61-111.5 (2) (b), Colorado Revised Statutes, is amended to read:

12-61-111.5. Fee adjustments. (2) (b) Based upon the appropriation made and subject to the approval of the executive director of the department of regulatory agencies, the division OF REAL ESTATE shall adjust its fees so that the revenue generated from said fees approximates its direct and indirect costs. Such fees shall remain in effect for the fiscal year for which the budget request applies. All fees collected by the division, NOT INCLUDING FEES RETAINED BY CONTRACTORS PURSUANT TO CONTRACTS ENTERED INTO IN ACCORDANCE WITH SECTION 12-61-103 OR 24-34-101, C.R.S., shall be transmitted to the state treasurer, who shall credit the same to the division of real estate cash fund, which fund is hereby created. All moneys credited to the division of real estate cash fund shall be used as provided in this section and shall not be deposited in or transferred to the general fund of this state or any other fund.

SECTION 7. 12-61-704 (1) (h) (I), Colorado Revised Statutes, is amended to read:

12-61-704. Powers and duties of the board. (1) In addition to all other powers and duties imposed upon it by law, the board has the following powers and duties:

(h) (I) To develop, ~~or~~ purchase, OR CONTRACT FOR any examination required for the administration of this part 7, to offer each such examination at least twice a year or, if demand warrants, at more frequent intervals, and to establish a passing score for each examination ~~which~~ THAT reflects a minimum level of competency;

SECTION 8. 12-61-705, Colorado Revised Statutes, is amended to read:

12-61-705. Fees, penalties, and fines collected under part 7. All fees, penalties, and fines collected pursuant to this part 7, NOT INCLUDING FEES RETAINED BY CONTRACTORS PURSUANT TO CONTRACTS ENTERED INTO IN ACCORDANCE WITH SECTION 12-61-103, 12-61-706, OR 24-34-101, C.R.S., shall be transmitted to the state treasurer, who shall credit the same to the division of real estate cash fund, created in section 12-61-111.5.

SECTION 9. 12-61-706 (1) (a), Colorado Revised Statutes, is amended to read:

12-61-706. Qualifications for registration, licensing, and certification of appraisers - continuing education. (1) (a) The board shall, by rule, prescribe requirements for the initial registration, licensing, or certification of persons under this part 7 to meet the requirements of the federal "Real Estate Appraisal Reform Amendments", Title XI of the federal "Financial Institutions Reform, Recovery, and Enforcement Act of 1989" and shall develop, ~~or purchase,~~ OR CONTRACT FOR examinations to be passed by applicants. The board shall not establish any requirements for initial registration, licensing, or certification that are more stringent than the requirements of any applicable federal law; except that all applicants shall pass an examination ~~developed or purchased~~ OFFERED by the board. If there is no applicable federal law, the board shall consider and may use as guidelines the most recent available criteria published by the appraiser qualifications board of the appraisal foundation or its successor organization.

SECTION 10. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 27, 2004